



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE MATTER OF:

GROUP: 16211764

K. AYASHI, et al

SERIAL NO.: 09/898,564

EXAMINER: J. Parsa

FILED: July 3, 2001

FOR: PRODUCTION PROCESS FOR METHANOL

PETITION TO WITHDRAW NOTICE OF ABANDONMENT

Assistant Commissioner of Patents & Trademarks
Washington, DC 20231

S I R:

This is in response to the Notice of Abandonment dated March 7, 2003 in connection with the above-identified application.

Please deduct any necessary fees in connection with this response from Deposit Account No. 01-1944.

In the Notice of Abandonment, a copy of which is attached, applicants' reply dated December 17, 2002 is alleged to be subsequent to the expiration period for reply and that applicant did not address drawing requirement to furnish a cross-sectional view of the reactor of Fig. 1 "as made in the Office Action of May 6, 2002 and repeated in the letter dated November 26, 2002."

In fact the allegations in the Notice of Abandonment are in error and the Notice of Abandonment should be withdrawn for the following reasons:

BEST AVAILABLE COPY

(1) The first Office Action is dated May 6, 2002 and the six month statutory period for response expired on November 6, 2002. Applicant submitted an amendment to the first office action dated August 9, 2002.

(2) In response to applicants' amendment, a first "Notice Of Non-Compliant Amendment" dated August 26, 2002 (Paper No. 7) was sent to applicant, a copy of which is attached requesting applicants to provide a clean version of the amended replacement pages as well as a marked up version. No other item was mentioned. Applicant filed a response on September 5, 2002 which fully responded to every item listed in the first Notice Of Non-Compliant Amendment dated August 26, 2002. Since no other item was mentioned in Paper No. 7, i.e. in the first Notice Of Non-Compliant Amendment, Paper No. 7 should have been withdrawn. It should be noted that Paper No. 7 has no mention of a drawing requirement.

(3) No response to applicants' reply to Paper No. 7 was issued until November 26, 2002 (as Paper No. 9, a copy of which is attached). The date of Paper No. 9 is after the expiration of the six month period for response to the first Office Action as well as being substantially later than September 26, 2002 alleged to be the expiration date in the Notice of Abandonment. Accordingly, Paper No. 9 from the U.S. PTO was improper in that it did not permit any time for applicant to respond to the first office action without a withdrawal of the date for response or grant a new date for response. Instead, Paper No. 9 is dated after the expiration of the first Office Action and makes reference to a drawing requirement in the first Office Action but not in the first Notice of Non-Compliant Amendment. Accordingly, Paper No. 9 is improper for both of the above reasons.

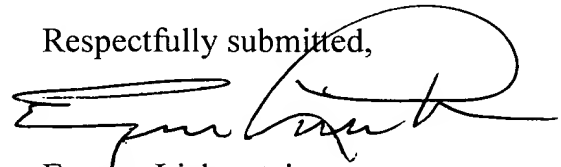
(4) Applicants had no choice but to assume that Paper No. 9 dated November 26, 2002 was granting applicant an extension of time to respond and this was in fact confirmed in a telephone conversation with Examiner Johnson on December 11, 2002 in which the Examiner confirmed that applicants could respond by December 26,

2002 including a three-month extension of time from the date of response (September 26, 2002) to Paper No. 7. Applicant did respond to Paper No. 9 on December 12, 2002, less than one month from the date of the second Notice (Paper No. 9).

(5) Lastly, the allegation in the "Notice Of Abandonment" in paragraph 7 relating to a so-called obligation to furnish a new cross-sectional view of the reactor of Figure 1 is totally erroneous since no requirement for a new drawing was made until Paper No. 9 and is not even in compliance with the first Office Action.

Accordingly, the Notice of Abandonment is without merit and should be withdrawn.

Respectfully submitted,

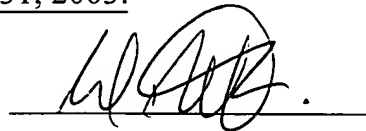


Eugene Lieberstein
Reg. No. 24,645

ANDERSON, KILL & OLICK
1251 Avenue of the Americas
New York, New York 10020-1182
(212) 278-1000

MAILING CERTIFICATE

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed: Commissioner of Patents & Trademarks, Washington, DC 20231 on March 31, 2003.





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,564	07/03/2001	Kazuto Kobayashi	MM4451	4871

7590 03/07/2003
ANDERSON KILL & OLICK, P.C.
1251 Avenue of the Americas
New York, NY 10020



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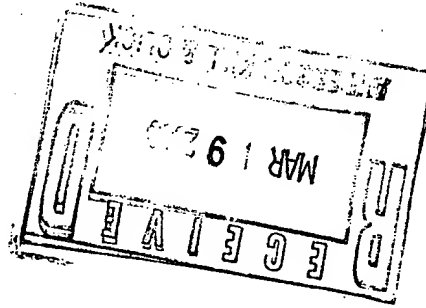
EXAMINER	
DOROSHENK, ALEXA A	
ART UNIT	PAPER NUMBER
1764	

DATE MAILED: 03/07/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

*Quoted NLT
File Renewal ASAP*





Notice of Abandonment

Application No.

09/898,564

Examiner

Alexa A. Doroshenk ^{1A60}

Applicant(s)

KOBAYASHI ET AL.

Art Unit

1764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☒ A reply was received on 17 December 2002 (with a Certificate of Mailing or Transmission dated 12 December 2002), which is after the expiration of the period for reply (including a total extension of time of 0 month(s)) which expired on 26 September 2002.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☒ A reply was received on 12/17/02 but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$ _____ is insufficient. A balance of \$ _____ is due.
The issue fee required by 37 CFR 1.18 is \$ _____. The publication fee, if required by 37 CFR 1.18(d), is \$ _____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

Applicant has not address the drawing requirement to furnish a cross-sectional view of the reactor of figure 1 made in the Office Action of 5-06-02 and repeated in the letter of 11-26-02.

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

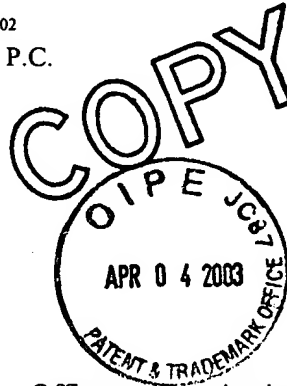


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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,564	07/03/2001	Kazuto Kobayashi	MM4451	4871

7590 08/26/2002
ANDERSON KILL & OLICK, P.C.
1251 Avenue of the Americas
New York, NY 10020



EXAMINER

DOROSHENK, ALEXA A

ART UNIT PAPER NUMBER

1764

DATE MAILED: 08/26/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Rechecked NLT

Due 9/26/02



Paper No.

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment filed on 8/9/02 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on September 8, 2000 (see 65 Fed. Reg. 54603, Sept. 8, 2000, and 1238 O.G. 77, Sept. 19, 2000). In order for the amendment to be compliant, applicant must supply the following omissions or corrections in response to this notice.

THE FOLLOWING ITEMS ARE REQUIRED FOR COMPLIANCE WITH RULE 1.121 (APPLICANT NEED NOT RE-SUBMIT THE ENTIRE AMENDMENT):

- ☒ 1. A clean version of the replacement paragraph(s)/section(s) is required. See 37 CFR 1.121(b)(1)(ii).
- ☒ 2. A marked-up version of the replacement paragraph(s)/section(s) is required. See 37 CFR 1.121(b)(1)(iii).
- ☒ 3. A clean version of the amended claim(s) is required. See 37 CFR 1.121(c)(1)(i).
- ☒ 4. A marked-up version of the amended claim(s) is required. See 37 CFR 1.121(c)(1)(ii).

Explanation:

NO REPLACEMENT PAGES EXCEPTED.

(LIE: Please provide specific details for correction to assist the applicant. For example, "the clean version of claim 6 is missing.")

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at <http://www.uspto.gov/web/offices/dcom/olia/pbg/sampleaf.pdf>. ~~A condensed version of a sample amendment format is attached.~~

☐ **PRELIMINARY AMENDMENT:** Unless applicant supplies the omission or correction to the preliminary amendment in compliance with revised 37 CFR 1.121 noted above within ONE MONTH of the mail date of this letter, examination on the merits may commence without entry of the originally proposed preliminary amendment. This notice is not an action under 35 U.S.C. 132, and this ONE MONTH time limit is not extendable.

☒ **AMENDMENT AFTER NON-FINAL ACTION:** Since the above-mentioned reply appears to be *bona fide*, applicant is given a TIME PERIOD of ONE MONTH or THIRTY DAYS from the mailing of this notice, whichever is longer, within which to supply the omission or correction noted above in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).


Legal Instruments Examiner (LIE)

SAMPLE AMENDMENT FORMAT



Conventional Heading Information
for Amendment Supplied Here (Applicant, Appl. No., etc)

AMENDMENT

Sir:

In response to the Office action of October 10, 2000, please amend the above-identified application as follows:

In the Specification:

Please replace the paragraph beginning at page 5, line 15, with the following rewritten paragraph:

-- In this construction the electric heating elements are positioned directly beneath the iron grid bars and melted fat is carried off in grooves formed in the upper surfaces of the bars. --

In the claims:

Please cancel claim 6.

Please amend claim 7 as follows:

7. (Amended) A griller as claimed in claim 1 wherein the power consumption of the heater element is 1250 watts and the weight of the grill member is about 3.5 kg.

(Page Break)

REMARKS/ARGUMENTS

Claims 1-5 and 7-10 remain in this application. Claim 6 has been canceled. Claim 7 has been amended.

Claims.....

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

SIGNATURE_____

(Page Break)

VERSION WITH MARKINGS TO SHOW CHANGES MADEIn the specification:

Paragraph beginning at line 15 of page 5 has been amended as follows:

In this construction the electric heating elements are positioned directly beneath the iron grid bars and melted fat is carried off in grooves formed in the upper surfaces of the bars.

In the claims:

Claim 6 has been canceled.

Claim 7 has been amended as follows:

7. (Amended) A griller as claimed in claim 1 wherein the power consumption of the heater element is 1250 ~~4600~~ watts and the weight of the grill member is about 3.5 kg.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,564	07/03/2001	Kazuto Kobayashi	MM4451	4871

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EXAMINER	
DOROSHENK, ALEXA A	
ART UNIT	PAPER NUMBER

1764 9
DATE MAILED: 11/26/2002

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SB

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09/898,564	07/03/2001	Kobayashi et al	MM 4451

EXAMINER

Dorashenk

ART UNIT	PAPER
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1764

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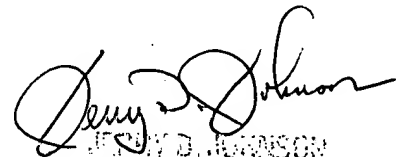
DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

The reply filed on August 9, 2002 along with the response to non-compliant amendment filed on September 13, 2002 is not to be fully responsive to the prior Office action because: the supposed proposed drawing correction in red ink does not show any corrections and there is no red ink anywhere on the supposed proposed drawing correction sheet. Additionally, no drawing or response has been provide with regard to the requirement to furnish a drawing under 37 CFR 1.81. Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more then FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.


PERRY D. JOHNSON
PRIMARY EXAMINER
GROUP 1100